

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

D.A.N. JOINT VENTURE III, L.P.,)	
Plaintiff,)	
)	
v.)	
)	
DOROTHEA TOURIS, STEVEN E.)	Case No. 1:18-cv-00349
GOULETAS; NATEL MATSHCULAT;)	Honorable Robert M. Dow, Jr.
HOME BY INVSCO, INC.; 800 SOUTH)	
WELLS PHASE II, LLC; PAUL JONES;)	
JAMES PAUL; STUART T. ADLER,)	
individually and as trustee of the Stuart T. Adler)	
Revocable Family Trust; GEORGE STRAY;)	
GEORGE SPANOS; WARADY & DAVIS)	
LLP; BEERMANN PRITIKIN MIRABELLI)	
SWERDLOVE LLP; SEG GARVEY LLC;)	
NKM GARVEY LLC; IRENE GOULETAS;)	
DESIREE WITTE; VICTORIA M.)	
GOULETAS; ROSALIE GOULETAS; LOUIS)	
GOULETAS; MICHAEL GOULETAS;)	
BRITTANY GOULETAS, and DOE)	
DEFENDANTS 1-10,)	
Defendants.)	MOVING DEFENDANTS' LOCAL RULE 56.1(a)(3) STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT ON COUNTS II AND III OF FIRST AMENDED COMPLAINT

**MOVING DEFENDANTS' LOCAL RULE 56.1(a)(3) STATEMENT OF UNDISPUTED
MATERIAL FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT ON
COUNTS II AND III OF FIRST AMENDED COMPLAINT**

Defendants Steven Gouletas, Irene Gouletas, Desiree Witte, Victoria Gouletas, Rosalie Gouletas, Louis Gouletas, Michael Gouletas, and Brittany Gouletas (collectively, "Moving Defendants"), by their undersigned counsel, and pursuant to Local Rule 56.1, submit the following Statement of Undisputed Material Facts in Support of Their Motion for Summary Judgment on Counts II and III of First Amended Complaint.

STATEMENT OF UNDISPUTED MATERIAL FACTS¹

A. DESCRIPTION OF THE PARTIES

1. Plaintiff D.A.N. Joint Venture III, L.P. is an Ohio limited partnership with its principal place of business in Newton Falls, Ohio. The general partner of Plaintiff is The Cadle Company, which is an Ohio corporation with its principal place of business in Newton Falls, Ohio. The limited partners of Plaintiff are Daniel C. Cadle and his wife, Ruth Cadel, both of whom are citizens of the State of Ohio. Exhibit A: First Amended Complaint ("1AC") ¶5.1.

2. Defendant Steven E. Gouletas is a citizen of the State of Illinois and the son of non-party Nicholas Gouletas. Exhibit A: 1AC ¶6.2.

3. Defendant Irene Gouletas is a citizen of Illinois and the sister of non-party Nicholas Gouletas. Exhibit A: 1AC ¶6.15.

4. Defendant Desiree White is a citizen of Illinois and the daughter of non-party Nicholas Gouletas. Exhibit A: 1AC ¶6.16.

5. Defendant Victoria M. Gouletas is a citizen of Connecticut and the daughter of non-party Nicholas Gouletas. Exhibit A: 1AC ¶6.17.

6. Defendant Rosalie Gouletas is a citizen of New Mexico and the daughter of non-party Nicholas Gouletas. Exhibit A: 1AC ¶6.18.

7. Defendant Louis Gouletas is a citizen of Illinois and the grandson of non-party Nicholas Gouletas. Exhibit A: 1AC ¶6.19.

¹ Moving Defendants cite to the First Amended Complaint as support for several of the facts recited herein. For purposes of this motion for summary judgment only, Moving Defendants do not dispute such facts. Moving Defendants reserve, and do not waive, their right to dispute any such facts if the motion for summary judgment is denied.

8. Defendant Michael Gouletas is a citizen of California and the grandson of non-party Nicholas Gouletas. Exhibit A: 1AC ¶6.20.

9. Defendant Brittany Gouletas is a citizen of Illinois and the granddaughter of non-party Nicholas Gouletas. Exhibit A: 1AC ¶6.21.

B. JURISDICTION AND VENUE

10. This Court has diversity jurisdiction under 28 U.S.C. §1332. *See* Def. Stmt. of Undisputed Material Facts ¶¶1-9, 16, 18-19.

11. Venue is proper in the Northern District of Illinois pursuant to 28 U.S.C. § 1391(b)(2) because the First Amended Complaint alleges that a substantial portion of the events giving rise to the claims asserted occurred in the Northern District of Illinois. *See*, e.g., Exhibit A: 1AC ¶¶11-18, 30-33.

C. UNDISPUTED MATERIAL FACTS

Sale of Bankruptcy Trustee's Claims to Plaintiff

12. On January 17, 2016, non-party Nicholas Gouletas ("Debtor") filed for Chapter 7 bankruptcy in the United States Bankruptcy Court for the Northern District of Illinois. Exhibit A: 1AC ¶5.2, 50; *In re Nicholas S. Gouletas*, No. 16-01335 (N.D. Ill. Bank. Ct.).

13. Richard Fogel ("Bankruptcy Trustee") was appointed trustee of the Debtor's Chapter 7 Bankruptcy Estate. Exhibit A: 1AC ¶5.2.

14. On July 23, 2017, the Bankruptcy Trustee sold his "fraudulent transfer, alter-ego, and common law tort claims" to the Plaintiff for \$15,000. Exhibit A: 1AC ¶5.2, 51. The Bankruptcy Court presiding over Debtor's Bankruptcy action authorized the sale on August 18, 2017. Exhibit A: 1AC ¶52. On September 13, 2017, the Bankruptcy Trustee and Plaintiff executed

an Assignment of Claims and Causes of Action for the Bankruptcy Trustee's "fraudulent transfer, alter-ego, and common law tort claims". Exhibit A: 1AC ¶52.

15. On January 25, 2018, Plaintiff filed this lawsuit asserting various fraudulent transfer and common law tort claims as the assignee of the Bankruptcy Trustee's claims. Exhibit A: 1AC ¶52.

Allegations in Counts II and III of Plaintiff's First Amended Complaint

16. Debtor was previously involved in a real estate development referred to as "Garvey Court". Exhibit A: 1AC ¶30. At one time, Debtor owned an interest in the Garvey Court Project through two entities: SEG Garvey LLC and NKM Garvey LLC. Exhibit A: 1AC ¶¶30, 32.

17. An involuntary Chapter 7 bankruptcy petition was filed against Garvey Court, LLC on December 17, 2014; that action was dismissed April 10, 2015. *See In re Garvey Court, LLC, No. 14-44900 (N.D. Ill. Bank. Ct. 2014)*. A second involuntary Chapter 7 bankruptcy action was filed against Garvey Court, LLC on January 20, 2016; that action remains pending. *See In re Garvey Court, LLC, No. 16-01700 (N.D. Ill. Bank. Ct. 2016)*.

18. In May of 2014, Debtor transferred his interest in SEG Garvey LLC to Moving Defendants in the following percentages: (i) Steven Gouletas – 16.66%; (ii) Irene Gouletas – 16.67%; (iii) Desiree Witte – 16.67%; (iv) Victoria Gouletas – 16.67%; (v) Rosalie Gouletas – 16.67%; (vi) Louis Gouletas – 5.53%; (vii) Michael Gouletas – 5.53%; (viii) and Brittany Gouletas – 5.54%. Exhibit A: 1AC ¶32.

19. Counts II and III of Plaintiff's First Amended Complaint seek to avoid Debtor's May 2014 transfer of interests in SEG Garvey LLC to the Moving Defendants under Sections 5(a)(1) and 6(a) of the Illinois Fraudulent Transfer Act. *See Exhibit A: 1AC, Counts II, III.*

Moving Defendants' Assignment of SEG Garvey LLC Interests to the Bankruptcy Trustee

20. In November 2016, each of the Moving Defendants assigned their respective interests in SEG Garvey LLC to the Bankruptcy Trustee (“SEG Garvey Assignments”). Exhibit B: Assignments; Exhibit C: Moving Defendants’ Affidavits.

21. On or about November 23, 2016, the Bankruptcy Trustee accepted the SEG Garvey Assignments. Exhibit D: Acceptance of Assignment; Exhibit E: Trustee Affidavit.

Dated: April 23, 2018

Respectfully submitted,

Steven Gouletas, Irene Gouletas, Desiree Witte, Victoria Gouletas, Rosalie Gouletas, Louis Gouletas, Michael Gouletas, and Brittany Gouletas,

By: /s/ John Chen
One of Their Attorneys

John Chen – 6193906
jchen@chenrobertslaw.com
Jennifer Schwartz – 6296184
jschwartz@chenrobertslaw.com
Chen Roberts Ltd.
33 N. Dearborn St., Suite 1420
Chicago, Illinois 60602
(312) 782-4450

CERTIFICATE OF SERVICE

John Chen, an attorney, hereby certifies that on April 23, 2018, he caused the foregoing MOVING DEFENDANTS' LOCAL RULE 56.1(a)(3) STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT ON COUNTS II AND III OF FIRST AMENDED COMPLAINT to be filed electronically with the Court. Notice of this filing will be sent by operation of the Court's electronic filing system to all registered ECF users in this case.

/s/ John Chen